

SEP 18 2006

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JAIME TAPIA-PICENO,

Defendant - Appellant.

No. 05-30554

D.C. No. CR-05-60029-
ALA/TMC

MEMORANDUM^{*}

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

MARTIN TAPIA-PICENO,

Defendant - Appellant.

No. 05-30556

D.C. No. CR-05-02016-
ALA/TMC

Appeal from the United States District Court
for the District of Oregon
Ann L. Aiken, District Judge, Presiding

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

Submitted September 14, 2006**
Portland, Oregon

Before: SILVERMAN and GOULD, Circuit Judges, and RHOADES ***, Senior District Judge.

Jamie Tapia-Piceno appeals the 74-month sentence imposed after his conviction, following a guilty plea, on multiple counts of possession with intent to distribute methamphetamine and on one count of conspiracy to possess with intent to distribute 50 or more grams of methamphetamine. His brother, Martin Tapia-Piceno, appeals the 36-month sentence imposed after his conviction, following a guilty plea, on multiple counts of possession with intent to distribute methamphetamine and on one count of conspiracy to possess with intent to distribute 50 or more grams of methamphetamine. We have jurisdiction under 28 U.S.C. § 1291.¹

The 74-month sentence that the district court imposed on Jamie Tapia-Piceno is reasonable. The court correctly calculated the Sentencing Guidelines range and used this range as a starting point for its assessment of an appropriate

** This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

*** The Honorable John S. Rhoades, Sr., Senior United States District Judge for the Southern District of California, sitting by designation.

¹ Because the parties are familiar with the facts and procedural history, we do not restate them here except as necessary to explain our disposition.

sentence. *See United States v. Cantrell*, 433 F.3d 1269, 1279-80 (9th Cir. 2006). The court then weighed several of the § 3553(a) factors including Tapia-Piceno's criminal history and characteristics, the nature and circumstances of the offense, and the need to protect the public and deter further criminal activity. *See United States v. Mix*, 442 F.3d 1191, 1196-97 (9th Cir.), *amended by* 457 F.3d 906 (9th Cir. 2006).

Martin Tapia-Piceno's 36-month sentence is reasonable for the same reasons. *See Cantrell*, 433 F.3d at 1279-80; *Mix* 442 F.3d at 1196-97.

AFFIRMED.